

Manufacturer Response to AB1109 Collection and Recycling Options
June 6, 2008

Option A

Manufacturers – Option A places “primary responsibility for implementing a convenient collection system on manufacturers.” The concept of “primary responsibility” is inconsistent with one of the agreed upon elements which is shared responsibility. The task force recommendation should include specific roles and responsibilities, and option M presented by the manufacturers would place the manufacturers in a primary role by establishing a TPO to administer a collection and recycling program.

Option A would also mandate specified “convenience goals” to be met by manufacturers. The cost of initially establishing an infrastructure to meet such convenience goals is unknown and the need has not been established. The most efficient and convenient method for collection is not through separate or independent manufacturer programs, but rather through existing retail locations that are already accessible to consumers. Rather than convenience goals, specific interim recycling targets should be set and accomplished over time, while assessing the cost of meeting each interim milestone.

Option A would also mandate that manufacturers pay for the cost of the transportation and recycling of lamps. Were manufacturers required to pay for the establishment of a system to satisfy AB 1109 type convenience goals and the cost of the transportation and recycling of lamps, this option could result in hugely increased prices for the energy efficient lighting source that the State wants consumers to choose over cheaper inefficient products.

Option A would support the use of PGC funds as a fund source after convenience goals are met. In the alternative, Option M would promote the use of PGC funds together with other ratepayer charges to fund the collection and recycling program. The use of these broad based funding sources would result in the lowest possible cost to consumers, would not increase collection costs, would incentivize the use of energy efficient products and would not be passed on to the lowest income consumers.

We agree that publicity and outreach should be a shared responsibility.

We also agree that manufacturers can provide data on sales to the state, based on a percentage formula from national sales data. Manufacturers do not sell products directly to California retailers, but we typically sell to them on a national and/or regional level. For example, manufacturers selling to large retailers deliver lamps to large distribution centers which may or may not be located in California. The retailers are then responsible for distributing lamps into retail

locations in the state. Only a TPO can effectively collect and report in state sales and collection data.

Retailers – We agree with all points noted except the last point of requiring mandatory participation.

Utilities – we agree with these points

State government – we have no major opposition to these points, but we are not in full agreement with the convenience goal and subsequent standards concepts.

Local government – we agree that local governments should participate in education and outreach.

We oppose the concept of requiring producers to create drop-off centers, even with assistance from local governments, for the reasons outlined above. This is extremely inefficient and costly which would lead to an increase in the cost of the lamps we are trying to promote for their environmental benefits. This would result in a drop in their usage and overall energy efficiency.

We agree with all other points for local governments.

Collectors/recyclers – we agree that these groups should follow universal waste management requirements and could provide reporting to the state.

However, we oppose the idea that they can enter into contracts with manufacturers. Recyclers must contract with the entities that will act as collection sites for liability reasons, and for those reasons listed above we oppose the concept of manufacturers as collectors.

Funding – as noted manufacturers oppose direct manufacturer funding because it would unduly and unnecessarily increase the cost of energy efficient lighting and discourage their usage, thereby limiting energy savings, and hindering the reduction of pollution emissions, including both carbon dioxide and mercury, from power plants.

Option B

Third Party Organization We agree with the concept of a TPO, as we've outlined in Option M. We recommend that recyclers be added to the list of stakeholders. The concept of the TPO in option B goes beyond the TPO responsibilities in Option M that we don't feel should be this organization's goals including reporting requirements, standards and codes. We also oppose the idea of the TPO entering into contracts or coordinating recycling services or agreements for collectors. This has significant liability implications that should be avoided.

Manufacturers – Option B places “primary responsibility for implementing a convenient collection system on manufacturers.” The concept of “primary responsibility” is inconsistent with one of the agreed upon elements which is shared responsibility. The task force recommendation should include specific roles and responsibilities, and option M presented by the manufacturers would place the manufacturers in a primary role by establishing a TPO to administer a collection and recycling program.

Option B would also mandate specified “convenience goals” to be met by manufacturers. The cost of initially establishing an infrastructure to meet such convenience goals is unknown and the need has not been established. The most efficient and convenient method for collection is not through separate or independent manufacturer programs, but rather through existing retail locations that are already accessible to consumers. Rather than convenience goals, specific interim recycling targets should be set and accomplished over time, while assessing the cost of meeting each interim milestone.

Option B would also mandate that manufacturers pay for the cost of the transportation and recycling of lamps. Were manufacturers required to pay for the establishment of a system to satisfy AB 1109 type convenience goals and the cost of the transportation and recycling of lamps, this option could result in hugely increased prices for the energy efficient lighting source that the State wants consumers to choose over cheaper inefficient products.

Option B would support the use of PGC funds as a fund source after convenience goals are met. In the alternative, Option M would promote the use of PGC funds together with other ratepayer charges to fund the collection and recycling program. The use of these broad based funding sources would result in the lowest possible cost to consumers, would not increase collection costs, would incentivize the use of energy efficient products and would not be passed on to the lowest income consumers.

We agree that publicity and outreach should be a shared responsibility.

We also agree that manufacturers can provide data on sales to the state, based on a percentage formula from national sales data. Manufacturers do not sell products directly to California retailers, but we typically sell to them on a national and/or regional level. For example, manufacturers selling to large retailers deliver lamps to large distribution centers which may or may not be located in California. The retailers are then responsible for distributing lamps into retail locations in the state. Only a TPO can effectively collect and report instate sales and collection data.

Retailers – again, TPO should not be assisting the retailers with recycling opportunities to the extent that these opportunities address contracts and/or consolidation of recycling services

We agree with the concept of voluntary participation as collection centers, but we disagree with the participation requirement imposed

Utilities – we agree with all these points although we're unclear about the role of the Take it Back program in this option.

State government – we agree with all these points but are unclear what diversion-based performance standards would include.

Local government – We agree with these points

Collectors/recyclers – we agree that these groups should follow universal waste management requirements and could provide reporting to the state.

However, we oppose the option of allowing recyclers to enter into contracts with the TPO, for the liability reasons outlined above.

Option C

Manufacturers – While we have control over the labeling and can work with retailers and distributor, as well as invest in the development of alternative light sources containing fewer toxic materials, this option requires manufacturers to accept bulbs at end of life even though manufacturers do not have a system to collect such bulbs. Therefore, we oppose this part of the option.

Furthermore, this option requires both manufacturers and sellers to accept bulbs back at the end of life. Sellers typically have locations to which bulbs can be taken, but manufacturers don't.

Requiring this of manufacturers could significantly increase the cost of the lamps, decrease the use of energy-efficient lamps, and would not be a cost-efficient option.

We agree with the other points for all stakeholders.

We strongly oppose the funding proposal because it represents the least cost-effective method for lamp recycling that would result in not achieving the desired goals of AB1109. Making use of existing infrastructures would require significantly less overhead than creating a completely new infrastructure.

Option E

Legislature – the legislature should not be responsible for setting goals that the state government agencies would be required to oversee and manage. This places undue burden on stakeholders to work with a set of goals that they have no involvement in establishing. The legislature can be influenced by a set of stakeholders with no involvement in meeting the goals, and the goals could be set at unrealistic levels for the responsible stakeholders.

The legislature should not be involved in establishing allocation rates for the TPO.

We don't support mandatory retailer participation.

Third Party Organization – The TPO should be set up by manufacturers, with manufacturer funds and utility rate payer funds as the primary funding sources.

The TPO should in no way negotiate fees and funds consolidation and recycling. For liability reasons, recyclers must contract directly with retailers and other collection centers. The TPO would open itself to significant liability risk were it to enter into this area. Furthermore, participating retailers and others can best use the free market system with recyclers to obtain lowest prices for transportation and recycling costs.

The TPO should be involved in setting metrics, but this may not include convenience metrics. Rather than convenience goals, specific interim recycling targets should be set and accomplished over time, while assessing the cost of meeting each interim milestone. The TPO is best able to collect the required data to determine recycling rates.

We agree with all other points for the TPO.

Manufacturers -- We agree that manufacturers should create the TPO, but the TPO should operate using membership fees for operations, education, outreach and publicity, and rate payer fees to cover the costs of transportation and recycling of lamps.

We agree that manufacturers should share responsibility for publicity and outreach, and that we can provide data to the TPO or the state, but sales data would be generated from a percentage formula of national sales data. State-specific sales data is unrealistic because manufacturers sell to national and regional companies, deliver to regional distribution centers, and rely upon the retailers to deliver product to individual stores within California. Manufacturers have California-specific sales data only for the very few retailers to whom we sell directly into California. Retailers would have more accurate state-specific sales data.

We also disagree with the way this option establishes a recycling rate. Manufacturers do not have control over recycling data – this information comes

from recyclers who recycle lamps either in the state or coming from the state. Furthermore, determining which lamps come from households and which come from the commercial sector is virtually impossible. In addition, manufacturers cannot be responsible for meeting convenience goals which, presumably, would be retailer collection locations. The relationship between retailers and manufacturers is one in which retailers dictate requirements to manufacturers, not the other way around. Manufacturers cannot require or even demand that retailers collect lamps, they can only encourage. The concept of placing responsibility for convenience goals solely on the manufacturers improperly assigns manufacturers with something over which they have no control, and they should not be held financially responsible for this.

Retailers – we agree with all points in this section except mandatory participation.

Utilities – we agree with all points in this section but want to clarify that “facilitate flow of rate payer funds to TPO” means that these funds would go to the TPO to be used to cover transportation and recycling costs borne by collectors.

State government – we agree that the state government plays a role in the oversight of the TPO, but a board of directors should be the governing body with the state government as a member of the board.

We believe the TPO should collect data and present it to the state

We don't agree with legislatively-established performance and convenience goals.

Local government – we agree with these points

Collectors/Recyclers – we believe the recyclers should report data to the TPO, not to the state so the TPO can act as one clearinghouse for data. Furthermore, for liability reasons listed above, recyclers should NOT enter into contracts with the TPO but with the collectors directly.

Funding options – We agree that the TPO should collect fees, but that funding of transportation and recycling costs should come from the utility rate payer funds.

Option R

We agree that the program should be market based that allows for competition. However, we believe that a 3rd party organization is the most effective mechanism for data collection, coordination of messaging and assisting with recycling options for collectors.

We also agree that appropriate performance measures will assure success, but that they should be determined and measured by the TPO and stakeholders on the board.